

AG Contract No. KR99 1162TRN
ADOT ECS File No. JPA 99-77
Project: 260YV 216/H3868 01L
Study: SW Willow Flycatcher
Bird Research Program

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE STATE OF ARIZONA
AND
UNITED STATES GEOLOGICAL SURVEY
FOREST & RANGELAND ECOSYSTEM SCIENCE CENTER

THIS AGREEMENT is entered into 27 July, 1999
pursuant to Arizona Revised Statutes; Sections 11-951 through 11-954, as amended between
the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION
(the "State") and the UNITED STATES GEOLOGICAL SURVEY, acting by and through its
FOREST & RANGELAND ECOSYSTEM SCIENCE CENTER (the "USGS").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the state.

2. The USGS is empowered by 43 U.S.C. Section 36(c) to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the USGS.

3. Incident to an highway improvement project on SR-260 contemplated by the State, the U.S. Fish and Wildlife Service has required mitigation efforts be conducted, as shown on Exhibit A which is attached hereto and made a part hereof. The effort involves a two year research program on the Southwest Willow Flycatcher bird (SWWF). The USGS has a current similar research effort underway, and has agreed to accomplish the State's research requirement concurrently, at an estimated cost of \$34,800.00.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

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NO. 23417
Filed with the Secretary of State
Date Filed: 07/27/99

Letroy Bayless
Secretary of State

By Dicky V. Gruenewald

II. SCOPE

1. The USGS will:

a. Implement and conduct a two year research effort to determine the physiological condition of the SWWF population that resides in native and non-native habitat along the Verde River, near Camp Verde, Arizona, using blood sampling and chemistry analysis.

b. Collect and band a sufficient number of SWWF birds for conducting the physiological study.

c. Invoice the State, in a format prescribed by the State, for the reasonable direct actual cost of the SWWF physiological study, with no profit or fee, in an amount currently estimated at \$34,800.00.

d. Provide the State with appropriate progress reports, and a final technical report which summarizes the results of the research effort.

2. The State will:

a. Within 30 days after receipt and approval of an invoice, pay the USGS for the reasonable direct actual cost of the SWWF research effort, in a total amount currently estimated at \$34,800.00.

b. Utilize the progress and final reports to satisfy the mitigation requirements of the U.S. Fish and Wildlife Service.

III. MISCELLANEOUS PROVISIONS

1. This agreement shall become effective upon filing with Arizona Secretary of State.

2. This agreement shall remain in force and effect until completion of such project and payments; provided, however, that this agreement may be canceled at any time by any of the parties hereto, upon thirty (30) days written notice to the other parties hereto.

3. This agreement may be canceled in accordance with Arizona Revised Statutes Section 38-511 pertaining to conflicts of interest on behalf of State employees.

4. The provisions of Arizona Revised Statutes Section 350214 pertaining to audit are applicable to this contract

5. Applicable laws of the State and Federal government shall govern the rights of the parties with respect to the performance of this agreement. The parties hereto shall select a process for the resolution of claims or disputes relating to this agreement, compliant with applicable laws and regulations of the State and Federal Government, and acceptable to the State and Federal government. Such process shall include a provision for arbitration.

6. No member of, or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this agreement. or to any benefits that may arise therefrom; but this provision shall not be construed to extend to this agreement if made with a corporation for its general benefit.

7. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 South 17th Avenue, Mail Drop 616E
Phoenix AZ 85007

USGS Forest and Rangeland Ecosystem Science Center
Colorado Plateau Field Station Ecologist
Box 5614, Northern Arizona University
Flagstaff, AZ 86001

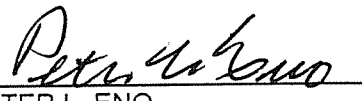
8. Attached hereto and incorporated herein is the written determination of legal counsel that the State is authorized under the laws of this state to enter into this agreement and that the agreement is inn proper form.

IN WITNESS WHEREOF: the parties have executed this agreement the day and year first above written.

U.S. GEOLOGICAL SURVEY STATE OF ARIZONA
Forest and Rangeland Ecosystem Science Center

Department of Transportation

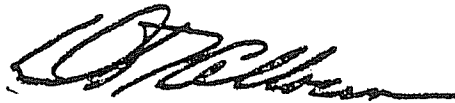
By 
MICHAEL COLLOPY
Director

By 
PETER L. ENO
Contract Administrator

RESOLUTION

BE IT RESOLVED on this 17th day of May 1999, that I, the undersigned MARY E. PETERS, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Intermodal Transportation Division, to enter into an agreement with the USGS for the purpose of defining responsibilities for conducting research on the SW Willow Flycatcher bird.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Contract Administrator for approval and execution.

A handwritten signature in black ink, appearing to read 'D. Allocco', with a horizontal line underneath it.

DAVID R. ALLOCCO, P.E.
Assistant State Engineer
Engineering Technical Group
for Mary E. Peters, Director

JPA 99-77

DETERMINATION

Arizona Contract No. JPA 99-77, which is an agreement between public agencies; to wit; the STATE OF ARIZONA, DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the UNITED STATES OF AMERICA, USGS, has been reviewed by the undersigned for the United States who has determined that it is in the proper form and within the powers and authority granted to the United States.

No opinion is expressed as to the authority of the State of Arizona to enter into said agreement.

DATED this 15th day of July, 1999.

THE UNITED STATES OF AMERICA

By Emily Lusk



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

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ATTORNEY GENERAL

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INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR99-1162TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED July 21, 1999.

JANET NAPOLITANO
Attorney General

JAMES R. REDPATH
Assistant Attorney General
Transportation Section

JRR:et/78911

Enc.